

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

<b>IN RE:</b>	§	
	§	
<b>DAVID G. WALLACE, JR.,</b>	§	<b>CASE NO. 15-31594-H4-7</b>
	§	
<b>DEBTOR</b>	§	

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**NOTEHOLDERS/INVESTORS' UNOPPOSED SECOND EMERGENCY MOTION TO  
EXTEND DEADLINE TO FILE COMPLAINTS EXCEPTING DEBTS FROM  
DISCHARGE UNDER 11 USC § 523 AND FED. R. BANKR. PROC. 4007(c)**

**TO THE HONORABLE JEFF BOHM  
UNITED STATES BANKRUPTCY JUDGE:**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE MOTION MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, THEN YOU SHOULD FILE AN IMMEDIATE RESPONSE.**

The NoteHolders/Investors set forth in Exhibit A attached hereto ("Movants") file this Second Emergency Unopposed Motion to Extend Deadline to File Complaints Excepting Debts from Discharge under 11 USC section 523 and Fed. R. Bankr. P. 4007(c) and would respectfully show unto the Court as follows:

I. Jurisdiction

1. This Court has jurisdiction over this Motion under 28 USC section 1334 and 157(b)(2)(I) and (J) and Fed. Rule Bankr. Proc. 4007(c). This matter is a core proceeding.

## II. Factual Background

2. On March 24, 2015, David G. Wallace, Jr. filed for protection under chapter 7 of title 11 United States Code. Rodney Tow has been appointed Chapter 7 Trustee.

3. The BusinessRadio Note Holders were enticed by the Debtor to make loans to one of the companies he controlled, Wallace Bajjali Development Partners, LLC (“WBDP”), which in turn made loans, as agent for the Business Radio Note Holders, to one or more Business Radio entities. The Debtor undertook responsibility to handle the loans and to obtain security agreements and perfect security interests on the BusinessRadio Note Holders’ behalves. The Debtor and WBDP failed to document the loans properly and failed to perfect the security interests. As a result, the BusinessRadio Note Holders were unable to obtain the assets of BizRadio or otherwise maintain their position as secured creditor. Additionally, the Debtor and WBDP made material misrepresentations of fact and failed to disclose material facts in order to induce the BusinessRadio Note Holders to make the loans at issue. The BusinessRadio Note Holders therefore have fraud claims against the Debtor relating to the transactions.

4. Due to the fact that Judge Atlas entered a bar order barring the BusinessRadio Note Holders from asserting claims against, *inter alia*, Wallace, certain of the BusinessRadio Note Holders filed an emergency motion to lift stay to allow them to seek clarification from Judge Atlas of the bar order. On June 9, 2015, this Court entered an agreed order which allowed the BusinessRadio Note Holders to seek clarification from Judge Atlas of the bar order.

5. Additionally, the Investor Group asserts fraud, breach of fiduciary duty, and conspiracy claims against the Debtor for his role(s) in the operation of BizRadio, Kaleta Capital

Management, and the Wallace-Bajjali entities. The Debtor misrepresented the financial condition and business status of the entities involved in order to induce the Investor Group to make loans and equity investments. After they made investments, the Debtor entered into financial transactions with and/or on behalf of BizRadio, Kaleta Capital Management, and the Wallace-Bajjali entities which constituted fraud and/or breaches of fiduciary duty. These include, but are not limited to, transfers of money between the entities without disclosure to the investors, payments of expenses not for the benefit of the companies and/or their investors, failing to disclose that numerous businesses were insolvent as the result of self-dealing and insider transactions, using profits from one entity to shore up another entity to the detriment of certain investors, abandoning or neglecting the Wallace-Bajjali entities for which he was an officer or general partner in favor of his public-private partnership business, knowingly participating in a Ponzi scheme, failing to disclose that he was knowingly participating in a Ponzi scheme, and making misrepresentations of material fact about the operation and success of the various businesses involved.

6. On June 23, 2015, the Court entered its Order Granting Unopposed Motion of NSJS, Limited Partnership to Extend Time for Filing Objection to Dischargeability of Debt 11 U.S.C. § 523 [Docket No. 91] (the “NSJS Order”). The NSJS Order provides that “the time which NSJS Limited Partnership and/or Community Bank & Trust may file a Complaint to Determine the Dischargeability of Debt is hereby extended ... until September 30, 2015.”

7. On August 7, 2015, the Trustee filed an Emergency Motion for Entry of an Agreed Order Further Extending the Deadline to Object to Discharge of the Debtor. The Trustee has sought further extension of the deadline on the basis that the Debtor has not provided the Trustee with all documents requested and the Debtor’s Rule 2004 examination by the Trustee will not take place until September 9, 2015.

8. The Court previously extended the deadline for Movants to file their section 523 and/or 727 actions until August 17, 2015. Movants request an additional extension of the section 523 deadline to file an action or actions seeking exception of their debts from discharge until September 30, 2015, the same deadline set for NSJS and requested by the Trustee. The Debtor and the Trustee do not oppose this extension.

### III. Relief Requested

9. The Noteholders/Investors set forth on Exhibit A seek an order from this Court which extends the deadline specifically as to them, for filing complaints excepting their debts from discharge under section 523 until September 30, 2015.

10. Cause exists to grant the extension because the Movants' claims against the Debtor are intricate and complex and require additional time to analyze and properly assert. Movants need access to the documents requested by the Trustee and would like the benefit of having the Debtor's Rule 2004 Examination before having to file their complaint. Further, as to the BusinessRadio Noteholders, they must obtain permission from Judge Atlas to pursue their claims, which requires additional time.

11. For these reasons, cause exists to extend the 523 deadline until September 30, 2015.

12. Emergency consideration of this Motion is requested because the discharge deadline is currently set for August 17, 2015, and Movants seek the extension before this date.

WHEREFORE, PREMISES CONSIDERED, the Note Holders/Investors set forth in Exhibit A attached hereto respectfully request that the Court enter an order which further extends the 11 USC section 523 deadlines to file complaints excepting their debts from discharge until September 30, 2015 for the reasons set forth herein and grant such other and further relief, at law

and in equity, as is just.

Respectfully submitted,

/s/ C. Thomas Schmidt  
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EXHIBIT A

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**CERTIFICATE OF CONFERENCE**

The undersigned certifies that Movants contacted Debtor's counsel, Janet Casciato Northrup, by email dated August 7, 2015 and August 10, 2015. Debtor's counsel indicated that Debtor does not oppose the extension of the 523 deadline set forth herein. The Trustee also indicated by email he did not oppose.

/s/ C. Thomas Schmidt

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Second Unopposed Emergency Motion to Extend Deadline to File Complaints Excepting Debts from Discharge under 11 USC section 523 and Fed. R. Bankr. P. 4007(c) has been served upon all parties listed on the attached Trustee's Master Service List either by postage paid United States mail or electronically by the Court on this 10th day of August, 2015.

/s/ Preston T Towber  
Preston T Towber

EXHIBIT A

The Investor Group is defined as:

RONALD & LAVONNE ELLISOR,  
RICHARD J. KADLICK,  
RAMESH & SAILAJA KONDURI,  
ROBERT P. FICKS,  
LARRY W. MULLINS,  
KOHUR SUBRAMANIAN,  
TIMOTHY B. KOEHL,  
MARTIN GROSBOLL,  
DOUGLAS & KAY SHAFFER,  
PHILLIP R. & ALISA K. JONES,  
ALLISON CAMERON,  
M. BRANNON & MICHELE KUYKENDALL,  
KEVIN J. DEERING,  
JOHNNY & BETTY GAUNTT,  
MARCUS ERICKSON,  
KURT EVERSON,  
GEORGE & MARENE TOMPKINS,  
TOMPKINS 2007 FAMILY PARTNERSHIP,  
RICHARD BURKHARDT,  
JAMES & PATRICIA STEWART,  
ROBERT L. HORLANDER, JR. & BRENDA K. HORLANDER,  
HORLANDER, LLC,  
DONALD L. & MARTHA M. KEIL,  
GERALD CROUCH,  
POST OAK FAMILY, L.P.,  
PAUL E. & SIMONA WILLIAMS,  
STEPHEN C. COOK,  
FLORENCE REILEY,  
CARLOS BARBERI,  
RAYMOND L. WARNER,  
HAL TOMPKINS,  
JOSEPH MILLER,  
NADA POR NADA, LTD.,  
ELLIS V. COUCH,  
ANITA CHANDLER,  
JOHN WILLIS, EXECUTOR OF THE ESTATE OF GERALDINE WILLIS,  
GARY SEEVER,  
GEORGE LINGENFELDER,  
LAWRENCE ROOT,  
FRED SHUFFLER,  
ROBERT RESCH,  
SANJIV & RENU KHANNA,  
DON BARRETT,  
DONNA BARRETT,  
ED & HELEN GRAY,  
BARBARA DOREEN HOUSE,  
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ZT GLOBAL  
ZT WEALTH DEVELOPMENT, LP.



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